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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 KARLA SAFO, et al.,

12 Plaintiff(s),

13 v.

14 KENDRA LEE QUINTANA, et al.,

15 Defendant(s).

Case No.: 2:18-cv-01886-MMD-NJK

ORDER

16 Defendants removed this case from state court on the basis of diversity jurisdiction. Docket
17 No. 1. Defendants identify themselves as Nevada citizens. *See id.* at 3. The removal statute
18 provides that “[a] civil action otherwise removable solely on the basis of jurisdiction under section
19 1332(a) of this title ***may not*** be removed if any of the parties in interest properly joined and served
20 as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2)
21 (emphasis added). As this case involves defendants who are Nevada citizens, removal was
22 improper under the local defendant rule.

23 Such defect is considered procedural rather than jurisdictional, so the Court may not
24 remand *sua sponte*. *See Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933, 942 (9th Cir. 2006).
25 Instead, Plaintiffs may choose to waive the procedural defect such that the case would remain in
26 federal court or Plaintiffs may choose to have the case remanded. *See id.* As such, the Court
27 **ORDERS** Plaintiffs to indicate whether they wish to waive this procedural defect or whether they
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1 wish to have the case remanded to state court. *See, e.g., Chan v. EFX, Inc.*, 2017 U.S. Dist. Lexis
2 128162, at *2-3 (C.D. Cal. Aug. 10, 2017). Such notice shall be filed by October 9, 2018.¹

3 IT IS SO ORDERED.

4 Dated: October 2, 2018

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Nancy J. Koppe
United States Magistrate Judge

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¹ To the extent Plaintiffs do not wish to waive this procedural defect, nothing herein prevents the parties from stipulating to remand.